

### REMARKS

Upon entry of the present amendment, claims 1 and 3-10 will remain pending in the above-identified application with claims 7-8 remaining withdrawn from consideration based upon an earlier restriction requirement and claims 1, 3-6 and 9-10 standing ready for further action on the merits. Claim 1 has been amended. Claim 2 has been cancelled. Claim 4 has been amended to be in independent format.

The present amendments to the claims do not introduce new matter into the application as originally filed. For example, the amendment to claim 1 finds support at claim 2, which has been canceled, and at page 6, lines 13-23 of the instant specification.

Accordingly, proper consideration of each of the pending claims is respectfully requested at present, as is entry of the present amendment.

#### *Claim Rejections under 35 USC § 102*

At pages 2-3 of the outstanding Office Action, claims 1-3, 5, and 9 have been rejected under 35 USC § 102(e) as being anticipated by Matsubara US '922 (US 6,733,922). Applicants respectfully traverse.

Reconsideration and withdrawal of this rejection is respectfully requested based on the following considerations:

#### *Distinctions over the Cited Reference*

Matsubara US '922 relates to a carbonaceous material. More specifically, the cited reference discloses a carbonaceous material comprising: a graphite particle having a 002 plane

interval d002 of less than 0.337 nm, as measured by the X-ray wide angle diffraction method; a complex particle disposed and distributed in the vicinity of the surface of the graphite particle, the complex particle comprising silicon and carbon and having a particle size smaller than that of the graphite particle; and an amorphous carbon layer having a 002 plane interval d002 of more than 0.37 nm, as measured by the X-ray wide angle diffraction method, the amorphous carbon layer being a polymer layer and being coated on the graphite particle and the complex particle rendering them bound, wherein the complex particle comprises Si particulate, a conductive carbon material disposed and distributed in the vicinity of the surface of the Si particulate, and a rigid carbon material layer coated on the Si particulate and the conductive carbon material rendering them bound, the Si particulate being composed of a crystalline Si phase. (See, for example, claim 1 at column 21 of Matsubara US '922.)

Accordingly, the core material of Matsubara US '922 is a graphite particle, and complex particles surround the graphite particle core.

On the other hand, in the present invention, the core material is silicon particles, silicon oxide particles or composite dispersion particles of silicon and silicon dioxide, which have a specific average particle size, respectively, as recited in claim 1. In short, the silicon or silicon oxide core is surrounded with a conductive coating such as carbon coating in the present invention.

Therefore, the construction of the negative electrode active material containing a lithium ion-occluding and -releasing material is quite different between the present invention and Matsubara's. Consequently, since Matsubara US '922 fails to disclose or suggest the negative

electrode active material of the present invention, the present invention (claim 1 and its dependent claims) is not anticipated by Matsubara US '922.

Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

*Allowable Subject Matter*

At page 3 of the Office Action, the Examiner indicates that claims 4, 6, and 10 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

In the present amendment, claim 4 has been amended to incorporate the limitations of claims 1 and 3 therein.

Therefore, it is submitted that the objection to claim 4 has been overcome, with the result being that claim 4 is now in condition for allowance.

**CONCLUSION**

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims are allowed under the provisions of Title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr. (Reg. No. 28,977) at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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